



City of Gaithersburg

31 South Summit Avenue
Gaithersburg, Maryland 20877

Mayor and City Council Regular Session Minutes City Hall - Council Chambers Monday, April 15, 2013

A Mayor and City Council Regular Session was called to order with Mayor Katz presiding. Council Members present: Jud Ashman, Cathy Drzyzgula, Henry F. Marraffa, Jr., Michael Sesma, and Ryan Spiegel. Staff present: City Manager Tomasello, City Attorney Board, Economic Development Director Lonergan, Intergovernmental Affairs Coordinator Sanchez, Parks, Recreation and Culture Director Potter, Finance and Administration Director Belton, Public Works Director Arnoult, Planning and Code Administration Director Schlichting, Lead Planner Robinson, Senior Recreation Program Supervisor David Ludington, Senior Center Director Whipple, and Municipal Clerk Stokes. Planning Commission present for joint public hearing: Kaufman, Lanier, Winborne.

I. **[CALL TO ORDER](#)**

II. **[PLEDGE OF ALLEGIANCE](#)**

The Pledge was led by Pack 1199 of the Tiger Cubs.

III. **[INVOCATION](#)**

In lieu of an invocation, Mayor Katz called for a moment of silence.

IV. **[APPROVAL OF MINUTES](#)**

A. **[Regular Session held April 2, 2013](#)**

Motion was made by Jud Ashman, seconded by Henry F. Marraffa, that minutes of the Regular Session held April 2, 2013, be approved.

Vote: 5-0

V. **[CONSENT](#)**

A. **[Resolution of the Mayor and Council Authorizing the City Manager to Award a Contract for the Chesapeake and Ohio Caboose Refurbishment Project](#)**

This resolution authorized the City Manager to award a contract for design and construction services for the C&O Caboose Refurbishment Project to Worcester Eisenbrandt, Inc., 2100 Gable Avenue, Baltimore, Maryland 21230, in the amount of One Hundred Thirty-Two Thousand Nine Hundred Eighty-One Dollars (\$132,981), with an additional contingency of Twenty Thousand Nineteen Dollars (\$20,019), for a total of One Hundred Fifty-Three Thousand Dollars (\$153,000); said funds to be expended from the Capital Improvements Budget.

Motion was made by Cathy Drzyzgula, seconded by Ryan Spiegel, that the Consent Agenda, be approved.

Vote: 5-0

VI. APPOINTMENTS

A. Resolution of the City Council Confirming Appointments by the Mayor to the Animal Control Board

This resolution confirmed the following reappointments to the Animal Control Board: Victor Katz (Full-Time Veterinarian), 880 Muddy Branch Road, Gaithersburg, Maryland 20878 and Virginia Joehl (Public-At-Large), 417 Main Street, Gaithersburg, Maryland 20878, three year terms.

Motion was made by Cathy Drzyzgula, seconded by Ryan Spiegel, that the Resolution of the City Council Confirming Reappointments by the Mayor to the Animal Control Board (Resolution No. R-32-13), be approved.

Vote: 5-0

B. Resolution of the City Council Confirming Appointments by the Mayor to the Commission on Landlord-Tenant Affairs

This resolution confirmed the following reappointments to the Commission on Landlord-Tenant Affairs: David Weber (Alternate), 441 Placid Street, Gaithersburg, Maryland 20878 and John Small (Tenant), 816 Gallop Hill Road, Unit L, Gaithersburg, Maryland 20879, three-year terms.

Motion was made by Jud Ashman, seconded by Michael Sesma, that the Resolution of the City Council Confirming Appointments by the Mayor to the Commission on Landlord-Tenant Affairs (Resolution No. R-33-13), be approved.

Vote: 5-0

VII. OATH OF OFFICE

The above appointees were not present to receive the oath of office. Staff will schedule for a future meeting.

VIII. PRESENTATIONS

A. Presentation from District 17 Delegation (Senator Jennie Forehand, Delegates Kumar Barve, Jim Gilchrist and Luiz Simmons) on the 2013 Legislative Session and Update From Staff on City's Legislative Priorities

The District 17 Delegation (Senator Jennie Forehand, Delegates Kumar Barve, Jim Gilchrist and Luiz Simmons) provided an overview on the 2013 Legislative Session in Annapolis. It was noted that the State of Maryland's budget was balanced and

continue to maintain an AAA rating for the 53rd year in a row. Several controversial subjects were mentioned including the passing of the Firearm Safety Act to tighten gun control and the repeal of Maryland's Death Penalty.

Other items highlighted:

Open Meetings Act bills requiring a designate to receive training on the requirements of the Open Meetings law was passed. In addition, the State Open Meetings Compliance Board determines that the public body violated the Open Meetings Act; a member of that body must announce the violation and read the board's opinion at the very next open meeting. A majority of the public body must also sign the opinion and return to the Board. The fine was also increased from \$100 to \$250 for the first violation.

Transportation Infrastructure Investment Act voted forwarded to aid municipalities and increase funding for highway user revenues. Funding from this bill should cover the Watkins Mill Road Interchange and the maintenance of local roadways. In addition, the Act would place a new one percent sales tax on gasoline beginning in July 2013, which would rise to two percent in January 2015 and three percent in July 2015. The sales tax could further rise to five percent in 2016 if Congress does not approve a measure allowing states to charge a sales tax on goods ordered over the Internet. By mid-2016, drivers can expect to pay between 13 and 20 cents more for a gallon of gas, on top of the current 23.5 cents flat tax. It was reported that the Legislature passed a constitutional amendment that would prevent the transportation revenues from being diverted to the general fund unless the Governor declares a fiscal emergency and at least 3/5 of the House and Senate concur. The constitutional amendment will be on the statewide ballot in November 2014.

In addition, legislation was passed for the prevention of Human Trafficking; the use of Off-Shore Wind Energy from natural resources to generate megawatts for energy; Child Safety Seat Law requiring all passengers in a vehicle to use seat belts; usage of cell phones while driving illegal; cyber bullying of a minor; credit given to students for Higher Education training and courses while in the military; mandatory alcohol and drug testing if it results in an injury; and studies for cancer cluster areas

Gaithersburg received a Bond Bill in the amount of \$150,000 for renovations and repair of the entryway to the Miniature Golf Course at Bohrer Park.

Failed legislation included: the State ethics amendments; speed monitoring systems requiring a flat fee or tiered contract, school zone definition clarification, designation of a local ombudsman; and legal notice requirements and posting on websites.

It was reported that the proposed amended legislation for State Ethics would have provided more flexibility of financial disclosure exemptions for municipalities. The failing of the speed monitoring systems provides an opportunity for local jurisdictions to take a closer look at their programs and make any necessary adjustments. As far as legal notices, proposed legislation would have provided discretionary authority to local governments to post state-mandated legal notices on websites in lieu of publishing in newspapers.

Intergovernmental Affairs Coordinator Sanchez thanked the District 17 Delegation, Senator Nancy King, and various staff for their efforts during the session. She highlighted other interest of Gaithersburg such as the restoration of Highway User

Revenue which was a top funding priority. This year, the City is expected to receive approximately \$336,000. The General Assembly approved a one-time capital grant for municipalities in the Secretary's office that totals 15.4 million in additional HUR for municipalities. Under that grant, the City stands to receive an additional \$740,000 for a total of \$1.75 million in FY14 or approximately half of the pre-recession levels. In addition, reported that the General Assembly approved full restoration of State Police Aid. These funds were cut by 35 percent since FY10. The City is expected to receive approximately \$616,000 in FY14. This is approximately 58% more than in FY13.

The City will continue to pursue legislation amending the Legal Notice Publication and the Ethics Ordinance. In addition, she mentioned the detrimental impact on state-mandated stormwater management programs. The bill's original intent was to require the State to either perform its own stormwater mitigation or reimburse a county for the mitigation the county must perform on the State's behalf. Unfortunately, during the State committee process the bill was heavily amended to place a hard cap on the fee's effect on non-profit organizations and to simply study the fee application to governmental facilities. Staff will closely monitor similar bills in the next legislative session. Added that a bill that would have prohibited Program Open Space funding to be used on artificial turf fields failed to make it out of committee. Also, staff will look at the Campaign Finance Reform Act of 2013 which passed. Under the bill, the maximum a donor could give during a four-year election cycle was raised to \$24,000; gives the State Board of Elections the ability to assess civil penalties for certain violations of campaign finance law; two related business entities would be treated as one for contribution aggregation; and out of state political committees, donating to anything in Maryland, must register with the Maryland Board of Elections and file reports.

B. **Proclamation of the Mayor and City Council Designating April 2013 as "Arab American Heritage Month" in the City of Gaithersburg**

The City of Gaithersburg recognizes Arab Americans throughout the month of April, providing an opportunity to learn about and appreciate the culture, history and contributions of our Arab American neighbors. In celebration, the City of Gaithersburg's Multicultural Affairs Committee and the Arab Americans of Montgomery County will host the Arab American Heritage Cultural Festival on Sunday, May 3rd from noon to 4 p.m. at the Bohrer Park Activity Center. The festival will feature poetry readings, arts and crafts, dance, live music, Middle-Eastern food, cultural exhibits, a fashion show, vendors, henna, calligraphy, and children's activities. Guled Kassim, Former President of Montgomery County Muslim Foundation, and Samir Hussein, Multicultural Affairs Committee, accepted this year's proclamation. Dr. Judith Docca, Board of Education, read a letter on behalf of Senator Barbara Mikulski.

C. **Proclamation of the Mayor and the City Council Designating May, 2012 as "Active Older Adult Month" in the City of Gaithersburg**

The City of Gaithersburg recognizes Older Americans throughout the month of May, providing an opportunity to acknowledge the many contributions older adults have made to our communities including the legacy of volunteerism, acting as role models to younger generations and the gift of patriotism. In celebration, the City of Gaithersburg's Senior Advisory Committee, in partnership with the Montgomery Village Foundation, Montgomery County Recreation, Montgomery County Housing and Opportunities Commission, and Asbury Methodist Village, will host the 5th Annual Active Aging Expo on Monday, May 6, from 9 a.m. to 2 p.m. There will be educational sessions on subjects of interest, interactive demonstrations, and

opportunities for pampering as well as preventative screenings. Grace Whipple, Senior Center Facility Director, and the Senior Advisory Committee accepted this year's proclamation.

D. **Recognition of the 2013 Middle Atlantic Recreation and Sports Alliance "Good Sports" Award Recipient**

Parks and Recreations Director Michele Potter spoke briefly about the "Good Sports" award. Mayor Katz presented a Certificate of Recognition and the "Good Sports" Award to Mr. Marc Berk, a coach in the City of Gaithersburg since 1994 and founder of the "Sam and Claire Rose Fund". Senior Recreation Program Supervisor David Ludington was present.

IX. **PUBLIC COMMENTS**

There were no speakers from the public.

X. **JOINT PUBLIC HEARING**

A. **SDP-1842-2013, Crown 2/2: The Applicant Requests Approval of the Schematic Development Plan, SDP-1842-2013, Per Annexation X-182 and Sketch Plan Z-315, Located in the Crown Property Neighborhood 1 (Outlot B, Block C) in Gaithersburg, Maryland. The Subject Application Proposes the Conversion of a Multi-Family Building to 70 2-over-2 Condominium Units**

Lead Planner Robinson presented the joint public hearing duly advertised on March 27 and April 3, 2013. The applicant VII Crown Farm Owner LLC, c/o Westbrook Properties, submitted Schematic Development Plan (SDP) application SDP-1842-2013. This plan, in accordance with the approved and amended X-182 annexation agreement and Sketch Plan Z-315, proposes converting a multi-family building to seventy (70) fee-simple 2-over-2 condominium units in Neighborhood 1 of the Crown development. The subject plan proposes the construction of seventy (70) 2-over-2 condominium units. The units are designed to relate and address either the adjoining exterior roads or the planned interior pocket green. Supplementary Design Guidelines have also been submitted as part of the SDP application. These guidelines will amend the Design Guidelines approved for Neighborhoods 1 and 2 to specifically address 2-over-2 design and the vision for the plan.

Robert Zeiller, Executive Vice President, Westbrook Properties, reported that Ryland Homes had been added to the development team. He stated that the development timeline is a combination of the market, consumer interest, and the built in flexibility of the annexation agreement and sketch plan allowing the acceleration of the submitted proposed plan. The team worked to integrate the design of the Downtown Crown area which is urban in nature. The site was previously approved with a parking structure on the south side with dual entrances. The elimination of the garage allowed an opportunity to enter the site from Copley Place and eliminate the entry way on Diamondback Drive. The team is seeking to create a meaningful open space that is both connected to the larger open space network, accessible, and convenient to use by all residents. He emphasized creating a balance between on and off site parking as well as maximizing the quality of open space. The residents will gain access to the community center and the amenities offered through a shared lease agreement. The plan also adds a variety of housing options to the Crown development. The 2-over-2 design provides a unique ownership option under the condominium

structure and promotes the City's initiative of homeownership.

Cindy Todd, VIKI, Inc., spoke on the specifics of the plan and provided an overview which included the community network bordered by Copley Place and Diamondback Drive and the on and off site pedestrian and parking circulation. Stated that the grade changes on Diamondback Drive will be leveled and addressed with a retaining wall. In addition, emergency vehicles have full access in and around the proposed 70 units. All materials are proposed to be similar to those standards approved in the design guidelines. The plan incorporated a pocket green which will bring an immediate passive space for the residents of the community.

Jack McLaurin, Lessard Design, reviewed the general building guidelines emphasizing the commitment to the transition from multi-family to the 2-over-2 units. The proposed materials and massing will be compatible with the multi-family and commercial buildings and special attention will be given to the building facades with a strong base and cornice. He further presented the architectural elevations from all sides of the buildings showing that each unit will have a garage and recessed balcony.

Concerns were expressed with the one entry way and the circulation for emergency vehicles and deliveries. The applicant was asked to investigate the possibility of another entry way or an emergency egress path. It was suggested to change grading and elevations in relation to the buildings. Staff noted that the school population would not be impacted by the 2-over-2 units and that the entire development does meet the City's goal of affordable housing.

There were no other speakers from the public.

Motion was made by Danny Winborne seconded by Geri Lanier, that the Planning Commission record on SDP-1842-2013, Crown 2/2: The applicant requests approval of the schematic development plan, SDP-1842-2013, per annexation X-182 and Sketch Plan Z-315, located in the Crown Property Neighborhood 1 (Outlot B, Block C) in Gaithersburg, Maryland. The subject application proposes the conversion of a multi-family building to 70 2-over-2 condominium units, remain open until 5 p.m., Thursday, May 9, 2013 (24 days) with anticipated recommendation on May 15, 2013.

Vote: 3-0

Motion was made by Henry Marraffa, seconded by Ryan Spiegel, that the Mayor and City Council record on SDP-1842-2013, Crown 2/2: The applicant requests approval of the schematic development plan, SDP-1842-2013, per annexation X-182 and Sketch Plan Z-315, located in the Crown Property Neighborhood 1 (Outlot B, Block C) in Gaithersburg, Maryland. The subject application proposes the conversion of a multi-family building to 70 2-over-2 condominium units, remain open until 5 p.m. on Friday, May 24, 2013 (39 days) with anticipated Policy Discussion on June 17, 2013.

Vote: 5-0

XI. PUBLIC HEARINGS**A. Constant Yield Tax Rate and Proposed Property Tax Increase for the City of Gaithersburg for FY 2014**

Harold Belton presented the above hearing. Pursuant to State law, local governments are required to hold a public hearing if maintaining the current property tax rate will result in increased revenues. If the City maintains the \$.2620 per \$100 of assessed value property tax rate, the property tax revenues will increase by 0.4 percent.

To collect the same amount of property tax revenue as last year, the City would need to reduce the tax rate to \$.2609 (the constant yield rate) per \$100 of assessed value; however, the City is proposing a tax rate of \$.2620. Mr. Belton reiterated that it is not a tax increase to the City, but will maintain its current tax rate. This hearing was introduced on April 2, 2013 and advertised according to State law on April 3, 2013.

Motion was made by Michael A. Sesma, seconded by Henry F. Marraffa, that the City Council hold their record open on the above until 5 p.m. on Wednesday, May 15, 2013.

Vote: 5-0

There were no speakers from the public.

B. An Ordinance to Adopt the City Budget for the Fiscal Year July 1, 2013, through June 30, 2014, and Levying an Ad Valorem Tax on all Assessable Property Within the City of Gaithersburg, Maryland

City Manager Tomasello presented the above hearing which was advertised in the *Gaithersburg Gazette* on March 27, 2013. This ordinance establishes the City Budget, which provides a complete financial plan, including anticipated revenues and proposed expenditures for the Fiscal Year 2014. The ordinance also institutes the ad valorem tax on all assessable property within the City of Gaithersburg, Maryland. The ad valorem tax has been set at a rate of \$.262 on each \$100 of assessed value of real property and \$.53 on each \$100 of assessed value of Personal Property.

He provided a budget overview to include: no proposed tax increase, budget aligned to the priorities identified in the City's Strategic Plan, and the use of reserve funding and reallocation of Capital Improvement Plan funds to allow the focus to be on restoring and maintaining levels of service, moving forward with several capital projects and restoring proper replacement funding. In addition, City Manager Tomasello highlighted potential budget impacts. He stated that Affordable Care Act may be significant and State level deliberations for speed cameras and Highway User Funds could impact the City's 5-year revenue projections. The total Operating Budget is \$49.7 million, Capital Improvement Plan \$6.9 million, totaling \$56.6 million which represents a 9.9 percent increase over the FY '13 Budget.

Revenue

Expect a budget increase before reappropriation of reserve funding of about 2%, local tax revenue to remain flat, anticipate slight decrease in licenses and permits revenue in FY'14 due to pipeline projects commencing in the current year, a decrease in federal and state grants, an increase budgeted for Highway User Revenues as mentioned above, photo radar program collections expected to

rise, Water Quality Projection Charge revenue will increase due to administrative change, and the income tax pass-through via Montgomery County is expected to increase which is based on the county's projections.

Reappropriation

The City ended FY'12 with over \$40 million in unassigned (designated) fund balance which is well in excess of the City's reserve balance and approximately \$3.3 million will be integrated into the budget to balance the FY'14 Budget. Staff will conduct an analysis over the summer for smaller escrow and reserve accounts. Those accounts will not be integrated into the FY'14 Budget.

Operating Budget

The ultimate goal is the restoration and/or maintenance of services to the highest reasonable level and to ensure that the budget will reflect the action items of the FY 2014 Strategic Plan which he highlighted to include: City Administration, Communication, Community Services, Economic Development, Infrastructure & Facilities, Parks, Recreation & Culture, Planning & Development, Sustainability, and Transportation. The Strategic Plan in its entirety can be found on the City's website.

Capital Improvement Plan:

The Mayor and City Council discussed and directed staff to proceed with the following short term projects: James Street/Observation Park, Constitution Gardens, design work for enhancement to the Public Service Facility; and second phase renovations for the existing Gaithersburg Upcounty Senior Center. In addition, it was discussed to reprioritize some unfunded projects such as: site selection for the Gaithersburg Police Station to break ground in FY 2018, public facilities and Parkland at Crown, former Consumer Product Safety Commission, and Quince Orchard Park/Melmmune improvements. Other major CIP initiatives proposed for FY'14 funding included: design and construction of several Storm Water Management facilities, synthetic field at Lakelands Park, street reconstruction and resurfacing projects (Quince Orchard Boulevard from Diamond Drive to Firstfield and West Deer Park and vicinity, and the refurbishment projects at City Hall.

City Manager Tomasello announced that budget work sessions are open to the public and scheduled for Monday, April 29, 2013, 7:30 p.m., and if necessary on Tuesday, April 30, 2013, 7:30 p.m., in the City Hall Council Chambers. Citizens and organizations were encouraged to submit written comments and requests via email to cityhall@gaithersburgmd.gov or via mail to the Mayor and City Council, 31 South Summit Avenue, Gaithersburg, Maryland 20877. The record will close on Thursday, May 17, 2013, 5 p.m., with final action expected on Monday, June 3, 2013. The budget is available online for the public at www.gaithersburgmd.gov.

Speaker from the public:

1. *Daniel Fried, resident of Rockville, serves on the City's Gaithersburg Senior Center Council*, expressed disappointment in the building of a new senior center to not be a priority in the FY'14 Budget. Asked the City to have a vision to provide progressive services for the senior community.

Motion was made by Cathy Drzyzgula, seconded by Ryan Spiegel, that the Mayor and City Council record on the above remain open until 5 p.m. on Thursday, May 17, 2013.

Vote: 5-0

XII. FROM THE MAYOR AND CITY COUNCIL**Marraffa**

1. Thanked staff for coordinating and organizing the recent events throughout the City.
2. Thanked the public for their input on the City's Budget and other matters.

Spiegel

1. Echoed condolences for Victims of the Boston Marathon.
2. Echoed thanks for the various events throughout the City of Gaithersburg.
3. Attended the Montgomery County Habitat for Humanity sign raising for the Maple Hill community.
4. Announced the Interfaith Alliance Luncheon scheduled for Thursday, April 18th.
5. Announced the April 27th events such as the Peony & the Railroad event at the City's Community Museum, the Montgomery County Housing Fair and Financial Fitness Day, and the opening of a Pritchard Music Academy in the Kentlands.
6. Announced that Paws in the Park is scheduled for Sunday, April 28th.
7. Encouraged citizens to provided input on the City FY 2014 Budget.

Ashman

1. Echoed thoughts on the victims of the Boston Marathon.
2. Attended several of the events mentioned above.
3. Reported that the Mayor and City Council conducted a closed Executive Session on April 2, 8:50 - 9:30 p.m., to discuss whether a business will locate in the City, a personnel matter, and potential litigation.

Drzyzgula

1. Congratulated the Environmental Affairs Committee, staff and community partners for their efforts to coordinate successful Green Weekactivities
2. Attended various events mentioned above.
3. MWCOG Board of Directors addressed the issue of gun violence and reconsidered the motion made; motion was rescinded to establish a process to address such issues.
4. MWCOG Executive Director Chuck Bean toured the City.
5. Mentioned that the campaign financing reported does not affect the City, but the staff is reviewing for possible updates to the City's ordinance.

Sesma

1. Echoed comments above about the various events.
2. Thanked Jr. Mayor Maya Walker for her service and welcomed Jacob Levine.
3. Welcomed the Habitat community and new residents to Gaithersburg.
4. Thanked the Multicultural Affairs Committee for the reception held earlier.

Katz

1. Requested the following motion to conduct an executive session:

Motion was made by Michael Sesma, seconded by, Ryan Spiegel, to conduct a closed session on Monday, April 15, 2013 at City Hall, to discuss amendments to annexation agreements and the process for the City Attorney's annual performance evaluation.

Vote: 5-0

2. Work Session scheduled for April 22 to receive an annual briefing from the Community Advisory Committee.
3. FY'14 Budget Work Session scheduled for Monday, April 29th, and if necessary continue on April 30th. All sessions will be held in the City Hall Council Chambers.
4. Next Regular Session scheduled for Monday, May 6, 2013.

XIII. FROM THE CITY MANAGER

1. Reported the interview process for the vacant Assistant City Manager will begin this week.
2. Reported that steps have been taken to look into hiring a consultant for the hiring process of the Human Resources Director.

XIV. ECONOMIC DEVELOPMENT UPDATE

Economic Development Director Lonergan introduced Anirban Basu, Chairman and CEO of Sage Policy Group. Provided everyone with an update of the assessment of the Frederick Avenue Corridor Capacity Study. Two focus groups were held to discuss the Frederick Avenue Corridor. Both groups expressed a lack of interest in the area, bypassed for other commercial areas. Business owners feel a sense of stagnation and a decline in public safety. A traffic group is looking to determine what the strengths are of the Corridor. Mr. Basu stated that the Frederick Avenue Corridor is a very difficult corridor to redevelop. A plan to offset the creeping decline is in the works. He commended staff for all of the work that has been done.

XV. FROM THE CITY ATTORNEY / OTHER STAFF

No report from staff.

XVI. ADJOURNMENT

There being no further business to come before this session of the City Council, the meeting was duly adjourned at approximately 9:45 p.m.